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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,894	06/04/2004	David Ho	12689-US-PA	3893

31561 7590 04/24/2007
JIANQ CHYUN INTELLECTUAL PROPERTY OFFICE
7 FLOOR-1, NO. 100
ROOSEVELT ROAD, SECTION 2
TAIPEI, 100
TAIWAN

EXAMINER

FOX, BRYAN J

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/709,894	Applicant(s) HO ET AL.	
	Examiner Bryan J. Fox	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Chmaytelli (US 20050055574A1).

Regarding claim 1, Mills discloses a system that uses SMS or USSD to deliver data to a mobile telephone and the data is either displayed or manipulated by an application module (see column 3, line 16 – column 4, line 55), which reads on the claimed, “method of remotely managing a mobile communication device, comprising: providing at least a short message, including an application program; sending said application program to said mobile communication device; running said application program on said mobile communication device.” The sending of the data includes determining the location of the mobile station (see column 3, line 16 – column 4, line

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55), which reads on the claimed, "determining a position of said mobile communication device." Mills fails to disclose the application is run to determine a position of said communication device.

In a similar field of endeavor, Chmaytelli discloses a system where an application is downloaded (see paragraph 42 and figure 3) and when executed, the application causes the system to determine the location of the device (see paragraph 44 and figure 8).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Mills with Chmaytelli to include the above application that determines the location of the device in order to protect applications and content from unauthorized acquisition, operation, and/or distribution as suggested by Chmaytelli (see paragraph 7).

Regarding claim 2, the combination of Mills and Chmaytelli discloses encapsulating the data into an SMS message (see Mills column 3, lines 16-53), which reads on the claimed, "said step of providing at least said short message includes: providing said application program; and enveloping said application program in said short message."

Regarding claim 4, the combination of Mills and Chmaytelli discloses the data transported to the mobile station can be either displayed or manipulated by an application module (see Mills column 4, lines 33-55), which reads on the claimed, "said step of running said application program on said mobile communication device includes: receiving said application program when said short message includes said application

program; and initializing an application program interface of said mobile communication device to run said application program.”

Regarding claim 9, the combination of Mills and Chmaytelli discloses the use of a mobile station (see Mills column 3, lines 16-53 and figure 1), which reads on the claimed, “said mobile communication device is a mobile phone.”

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Chmaytelli, and further in view of Rogers et al.

Regarding claim 5, the combination of Mills and Chmaytelli fails to expressly disclose an identification index for determining whether said short message includes said application program.

In a similar field of endeavor, Rogers et al disclose the use of a predetermined delimiter defined to be a string of characters that normally does not occur at the start of a message to indicate a feature control message (see Rogers et al column 5, lines 14-33), which reads on the claimed, “said short message includes an identification index for determining whether said short message includes said application program.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Mills and Chmaytelli with Rogers et al to include the above delimiter in order to distinguish a feature control message from an ordinary SMS message as suggested by Rogers et al (see column 5, lines 1-13).

Regarding claim 7, the combination of Mills and Chmaytelli fails to expressly disclose said application program and said application program interface comply with a predetermined program standard for said mobile communication device.

In a similar field of endeavor, Rogers et al disclose a specific format for the feature control message (see Rogers et al column 5, line 13 – column 7, line 30), which reads on the claimed, "said application program and said application program interface comply with a predetermined program standard for said mobile communication device."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Mills and Chmaytelli with Rogers et al to include the above specific format in order to distinguish a feature control message from an ordinary SMS message as suggested by Rogers et al (see column 5, lines 1-13).

Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Chmaytelli, and further in view of Kim (US006810262B2).

Regarding **claim 3**, the combination of Mills and Chmaytelli fails to disclose dividing the application program into a plurality of program code portions when the application has a size larger than a capacity of the short message, each portion having a size smaller or equal to the capacity of the short message.

In a similar field of endeavor, Kim discloses a system where if an SMS message exceeds the SMS message standard, the controller divides the SMS message into a plurality of segments according to the SMS message standard (see column 4, lines 15-29), which reads on the claimed, "said step of enveloping said application program in said short message includes: when said application has a size larger than a capacity of said short message, dividing said application program into a plurality of program code

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portions, each of said plurality of program code portions having a size smaller or equal to said capacity of said short message in order to be enveloped in said short message.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Mills and Chmaytelli with Kim to include the above segmenting of a short message in order to provide a system that accommodates messages larger than the standard.

Regarding **claim 8**, the combination of Mills and Chmaytelli fails to disclose extracting portions of an application program from a plurality of messages and reassembling each portion to recover the application program.

In a similar field of endeavor, Kim discloses that if the SMS message is not a single one, the controller detects a message sequence number from the DOCUMENT TYPE, decodes the message according to its message sequence number and checks whether another SMS message has been received successively until the sequence is done (see column 6, lines 31-41), which reads on the claimed, “receiving said plurality of short messages; determining whether any one of said plurality of short messages includes a portion of said application program, when a few of said plurality of short messages include portions of said application program, extracting said portions of said application program; reassembling each of said portions of said application program to recover said application program.”

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Mills and Chmaytelli with Kim to include the

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above segmenting of a short message in order to provide a system that accommodates messages larger than the standard.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Chmaytelli, and further in view of what was well-known in the art (see MPEP 2144.03).

Regarding **claim 6**, Mills fails to expressly disclose the use of a Java Micro Edition standard.

The examiner takes official notice that Java 2 Micro Edition was well known in the art at the time of the invention.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Mills to include the use of Java 2 Micro Edition in order to take advantage of the optimized environments and programming interfaces that Java allows on a limited device.

Response to Arguments

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan J. Fox whose telephone number is (571) 272-7908. The examiner can normally be reached on Monday through Friday 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles N. Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bryan Fox
April 15, 2007


CHARLES N. APPIAH
SUPERVISORY PATENT EXAMINER